

REPLY

The Examiner rejected claims 1, 4 and 10 under 35 USC §102(b) as being anticipated by Discko, Jr., USP 5,165,890. The Examiner further rejected claims 1, 4, 9, and 10 under 35 USC §102(b) as being anticipated by Discko, Jr., USP 5,052,927. The Examiner also rejected claims 1, 4-6, 9, and 10 35 USC §102(b) as being anticipated by Mertins et al.

The Examiner rejected claims 2, 3, 12, and 14 under 35 USC §103(a) as being unpatentable over Discko, Jr., USP 5,052,927. The Examiner also rejected claims 2, 3, 11, 12, and 14 under 35 USC §103(a) as being unpatentable over Mertins et al in view of Discko, Jr., USP 5,165,890.

However, the Examiner indicated that claims 15-19 are allowed, and that claims 7, 8, and 13 would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

Claims 7, 8, and 13 have been rewritten. Claims 7 and 13 have been rewritten in independent form. Accordingly, independent claim 7, dependent claim 8, and independent claim 13 should now be allowed.

The Examiner indicated that with respect to Applicant's arguments, that Discko, Jr. USP 5,165,890 does not show a dental capsule having three different axes that intersect. The Examiner

directed Applicant's attention to the embodiment of Fig. 5. The Examiner noted that even though the axes of the transition portion is co-linear with the axes of the body portions, they do intersect to form an angle, even though such angle is zero degrees.

Claim 1 has been amended to indicate that said body portion axes intersect said transition portion axes forming a non-zero body transition angle. To further distinguish the present invention from Discko, Jr. USP 5,165,890 and the other references cited by the Examiner, specifically Mertins et al and Discko, Jr. USP 5,052,927, independent claim 1 has been further amended. Independent claim 1 has been amended to recite said transition portions having an upper transition surface intersecting at an angle with the body portion inside surface of said body portion and a lower transition portion segment surface coincident with a straight line formed by the body portion inside surface. Support for this amendment can be found on pages 7-8 of the application and in the drawings.

Independent claim 12 recites a body-transition angle ranging between 25° and 35° in combination with a transition-discharge angle ranging between 15° and 25°. Independent claim 12 has been further amended similarly to independent claim 1 to recite that the transition portion has an upper transition surface intersecting at an angle with the body portion inside surface of

said body portion and a lower transition portion segment surface coincident with a straight line formed by the body portion inside surface.

Accordingly, independent claims 1 and 12 have been amended to more specifically recite the structure of the transition portion providing for the improved flow of viscous dental materials resulting in reduced extrusion forces. The transition portion structure, as recited in independent claims 1 and 12, is not disclosed in any of the references cited by the Examiner. The more specifically defined transition portion in independent claims 1 and 12 results in helping to prevent shearing of the dental material, reducing the possibility of components of the composite dental material from separating which affects its properties.

The Examiner indicated that the Applicant has provided no evidence to support the Applicant's allegations of unexpected results, and therefore has deemed them moot.

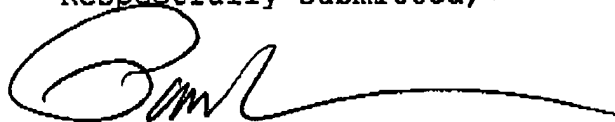
The Examiner should note the comparative information found in the specification on page 8, lines 7-12, which is intended to illustrate the claimed invention in reaching a conclusion with regard to the obviousness of the claims. Additionally, filed with this Amendment and Reply is a Declaration of Ryan Dubey providing evidence supporting the allegations of unexpected results.

10/085,847

P-2354..CIP2

It is respectfully requested that the Examiner reconsider the present application and indicated additional allowable subject matter.

Respectfully submitted,



Paul A. Fattibene
Reg. No. 31,694

2480 Post Road
Southport, CT 06890
Tel. 203-255-4400
Fax 203-259-0033

October 22, 2004